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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,262	02/06/2006	Hiroyuki Hidaka	81887.0126	3227

26021 7590 06/14/2010  
Hogan Lovells US LLP  
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LOS ANGELES, CA 90067

EXAMINER
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ZEWARI, SAYED T

ART UNIT	PAPER NUMBER
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2617

NOTIFICATION DATE	DELIVERY MODE
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06/14/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ctkeyner@hhlaw.com  
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<b>Office Action Summary</b>	<b>Application No.</b> 10/538,262	<b>Applicant(s)</b> HIDAKA, HIROYUKI	
	<b>Examiner</b> SAYED T. ZEWARI	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Amendment*

1. Applicant's arguments with respect to claims have been considered but are not persuasive. Applicant argues that the applied references do not disclose transmission rate notify section, obtain section, transmission rate notify section. These are basically labels put on the well known elements such as transmitter, receiver, and processor. Examiner does not agree with the interpretation of the applicant. Therefore the rejection is maintained.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uchida et al. (US 6,745,049) in view of Tsien et al. (US 2003/0166394).

With respect to claim 1, Uchida discloses a wireless communication system configured from a wireless base station and a wireless communication terminal (**See Uchida's figure 1 and 2, col.9 lines 37-67**), the wireless base station comprises: a

transmission rate notify section that notifies the wireless communication terminal of an initial uplink transmission resources information **(See Uchida's col.2 lines 14-67)**.

Uchida disclose everything claimed as applied above to claim 1, except for explicitly reciting an obtain section that obtains the initial uplink transmission resources information. In analogous art, Tsien discloses a communication system for data transmission rate control **(See Tsien's figure 2(42, 48), section [0012]-[0018])**. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Uchida combine it with that of Tsien for the purpose of setting transmission rate control in a wireless system, as taught by Tsien.

With respect to claim 6, Uchida discloses a wireless communication terminal **(See Uchida's figure 1 and 2, col.9 lines 37-67)**, comprising: obtains an initial uplink transmission resources information, notified from a wireless base station **(See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change)**. Uchida disclose everything claimed as applied above to claim 6, except for explicitly reciting a transmission section that transmits data obtained at the initial uplink transmission resources. In analogous art, Tsien discloses a communication system for data transmission rate control **(See Tsien's figure 2(42, 48), section [0012]-[0018])**. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Uchida and combine it with that of Tsien for the purpose of setting transmission rate control in a wireless system, as taught by Tsien.

With respect to claim 7, Uchida discloses a wireless communication terminal, wherein a wireless communication line set between a wireless base station and the

wireless communication terminal (**See Uchida's figure 1 and 2, col.9 lines 37-67**), comprising: a terminal transmission rate notify section that notifies the wireless base station of an initial transmission rate required by the wireless communication terminal on the wireless communication line from the wireless communication terminal to the wireless base station wherein the terminal transmission rate notify section notifies the wireless base station of the initial transmission rate when the wireless base station and the wireless communication terminal exchange their mutual station information (**See Uchida's col.2 lines 14-67**); and a wireless base station transmission rate broadcast section that notifies the wireless communication terminal of a transmission rate that enables to be supported by the wireless base station on the wireless communication line from the wireless communication terminal to the wireless base station (**See Uchida's col.2 lines 14-67**). Uchida discloses everything claimed as applied above to claim 7, except for explicitly reciting an initial transmission rate determination section that determines an initial transmission rate on the wireless communication line from the wireless communication terminal to the wireless base station based on a determination result as to whether or not the wireless base station enables to support the initial transmission rate notified from the wireless communication terminal. In analogous art, Tsien discloses a communication system for data transmission rate control (**See Tsien's figure 2(42, 48), section [0012]-[0018]**). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Uchida and combine it with that of Tsien for the purpose of setting transmission rate control in a wireless system, as taught by Tsien.

With respect to claim 11, Uchida discloses a wireless base station, wherein a wireless communication line is set between the wireless base station and a wireless communication terminal **(See Uchida's figure 1 and 2, col.9 lines 37-67)**, for performing communications, comprising: a wireless base station transmission rate notify section that notifies the wireless communication terminal of an initial transmission rate that enables to be supported by the wireless base station on the wireless communication line from the wireless communication terminal to the wireless base station **(See Uchida's col.2 lines 14-67)**.

With respect to claim 12, Uchida discloses a transmission rate control method of a wireless communication system configured from a wireless base station and a wireless communication terminal **(See Uchida's figure 1 and 2, col.9 lines 37-67)**.the wireless base station comprises: notifying the wireless communication terminal of an initial uplink transmission resources information **(See Uchida's col.2 lines 14-67)**, and the wireless communication terminal comprises: obtaining the initial uplink transmission resources information; and transmitting data obtained at the initial uplink transmission resources. Uchida disclose everything claimed as applied above to claim 12, except for explicitly reciting an obtain section that obtains the initial uplink transmission resources information. In analogous art, Tsien discloses a communication system for data transmission rate control **(See Tsien's figure 2(42, 48), section [0012]-[0018])**. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Uchida combine it with that of Tsien for the purpose of setting transmission rate control in a wireless system, as taught by Tsien.

With respect to claim 13, Uchida discloses a transmission rate control method of a wireless communication system configured from a wireless base station and a wireless communication terminal **(See Uchida's figure 1 and 2, col.9 lines 37-67)**, wherein a wireless communication line is set between the wireless base station and the wireless communication terminal **(See Uchida's figure 1 and 2, col.9 lines 37-67)**, the transmission rate control method includes the steps in which: the wireless communication terminal notifies the wireless base station of an initial transmission rate required by the wireless communication terminal on the wireless communication line from the wireless communication terminal to the wireless base station when the wireless base station and the wireless communication terminal exchange their mutual state information **(See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change)**; the wireless base station determines whether or not the initial transmission rate notified from the wireless communication terminal enables to be supported **(See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change)**; the wireless base station notifies the wireless communication terminal of a determination result of the determination section **(See Uchida's col.2 lines 14-67)**; and the wireless communication terminal determines the transmission rate on the wireless communication line from the wireless communication terminal to the wireless base station based on the determination result notified from the wireless base station **(See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change)**.

With respect to claim 2, Uchida discloses a wireless communication system configured from a wireless base station and a wireless communication terminal (**See Uchida's figure 1 and 2, col.9 lines 37-67**), wherein a wireless communication line is set between the wireless base station and the wireless communication terminal (**See Uchida's figure 1 and 2, col.9 lines 37-67**), the wireless communication terminal comprises: a terminal transmission rate notify section that notifies the wireless base station of an initial transmission rate required by the wireless communication terminal on the wireless communication line from the wireless communication terminal to the wireless base station when the wireless base station and the wireless communication terminal exchange their mutual state information (**See Uchida's col.2 lines 14-67**); and an initial transmission rate determination section that determines an initial transmission rate on the wireless communication line from the wireless communication terminal to the wireless base station (**See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change**), and the wireless base station comprises: a determination section that determines whether or not the initial transmission rate notified from the wireless communication terminal enables to be supported (**See Uchida's col.2 lines 14-67**) ; and a determination result notify section that notifies the wireless communication terminal of a determination result of the determination section (**See Uchida's col.2 lines 14-67**). Uchida discloses everything claimed as applied above to claim 7, except for explicitly reciting an initial transmission rate determination section that determines an initial transmission rate on the wireless communication line from the wireless communication terminal to the wireless base station based on a determination



result as to whether or not the wireless base station enables to support the initial transmission rate notified from the wireless communication terminal. In analogous art, Tsien discloses a communication system for data transmission rate control (**See Tsien's figure 2(42, 48), section [0012]-[0018]**). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Uchida and combine it with that of Tsien for the purpose of setting transmission rate control in a wireless system, as taught by Tsien.

With respect to claim 3, Uchida discloses a wireless communication system wherein the wireless communication terminal notifies the wireless base station of the transmission rate required by the wireless communication terminal on the wireless communication line from the wireless communication terminal to the wireless base station when power of the wireless communication terminal is turned on, and determines the transmission rate on the wireless communication line from the wireless communication terminal to the wireless base station based on the determination result notified from the wireless base station (**See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change**).

With respect to claim 4, Uchida discloses a wireless communication system wherein the terminal transmission rate notify section notifies the wireless base station of a state information request message including the transmission rate required by the wireless communication terminal on the wireless communication line from the wireless communication terminal to the wireless base station (**See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change**).

With respect to claim 5, Uchida discloses a wireless communication system wherein the wireless communication terminal comprises a request transmission rate transmission section **(See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change)** that retransmits a request of a transmission rate lower than the transmission rate required by the wireless communication terminal when the determination result from the wireless base station section shows that the transmission rate does not enable to be supported **(See Uchida's figure 7, col.9 lines 4-5, figure 1)**.

With respect to claim 8, Uchida discloses a wireless communication system wherein when power of the wireless communication terminal is turned on, the wireless communication terminal notices the wireless base station of the transmission rate **(See Uchida's figure 7, col.9 lines 4-5, figure 1, col.4 lines 15-17)**.

With respect to claim 9, Uchida discloses a wireless communication system wherein the terminal transmission rate notify section notifies the wireless base station of a state information request message including the transmission rate **(See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change)**.

With respect to claim 10, Uchida discloses a wireless communication terminal comprising: an inherent request transmission rate transmission section that retransmits a request of a transmission rate lower than the transmission rate required by the wireless communication terminal when the determination result from the wireless base station section shows that the transmission rate does not enable to be supported **(See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change)**.

With respect to claim 14, Uchida discloses a transmission rate control method wherein the wireless communication terminal notifies the wireless base station of the transmission rate when power of the wireless communication terminal is turned on (**See Uchida's figure 1 and 2, col.9 lines 37-67**).

With respect to claim 15, Uchida discloses a wireless communication system wherein the terminal transmission rate notify section notifies the wireless base station of a state information request message including the transmission rate (**See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change**).

With respect to claim 16, Uchida discloses a wireless communication system wherein the wireless communication terminal retransmits a request of a transmission rate lower than the transmission rate required by the wireless communication terminal when the determination result from the wireless base station section shows that the transmission rate does not enable to be supported (**See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change, figure 1**).

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sayed T. Zewari whose telephone number is 571-272-6851. The examiner can normally be reached on 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester G. Kincaid can be reached on 571-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sayed T Zewari/  
Examiner, Art Unit 2617

/LESTER KINCAID/  
Supervisory Patent Examiner, Art Unit 2617